

House Bill 1265

By: Representatives Pruett of the 144th, Horne of the 71st, Barnard of the 166th, Cox of the 102nd, Martin of the 47th, and others

A BILL TO BE ENTITLED
AN ACT

1 To amend Title 42 of the Official Code of Georgia Annotated, relating to penal institutions,
2 so as to clarify the types of individual insurance coverage which may reimburse jails for
3 medical expenses where a jail detainee has insurance coverage; to authorize local governing
4 authorities to establish rules and regulations providing that nonindigent detainees in jails
5 shall pay a portion of the costs of their incarceration; to provide for related matters; to
6 provide for an effective date and applicability; to repeal conflicting laws; and for other
7 purposes.

8 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

9 **SECTION 1.**

10 Title 42 of the Official Code of Georgia Annotated, relating to penal institutions, is amended
11 by revising paragraph (4) of Code Section 42-4-50, relating to definitions relative to medical
12 services of inmates in jails, as follows:

13 "(4) 'Medical care' ~~includes~~ means medical attention, dental care, mental health care,
14 optometry care, physical or mental health therapy, prosthesis, and medicine and necessary
15 and associated costs such as transportation, guards, room, and board."

16 **SECTION 2.**

17 Said title is further amended in Article 4 of Chapter 4, relating to deductions from inmate
18 accounts in jails for expenses, by adding a new Code section to read as follows:

19 "42-4-72.

20 (a) For purposes of this Code section, the term 'detainee' means any person held in a
21 municipal, county, or combined local governing authority jail whether such person has
22 been convicted or is awaiting the disposition of charges.

23 (b) A county, municipal, or combined local governing authority may establish by rule or
24 regulation a procedure by which a detainee shall reimburse the governing authority a
25 portion of the actual costs of incarcerating the detainee in a jail. The charge for

incarceration shall be a per diem rate. The rate charged shall not exceed the actual per diem cost for the entire period of time the detainee is held in the jail or \$40.00 per day, whichever is less. Costs shall be charged only after the detainee has been convicted. In the event that a conviction is overturned, any amounts charged and collected shall be returned.

(c) A detainee who is deemed indigent shall not be charged the costs of incarceration, nor shall charges accrue against an indigent detainee; provided, however, that if an indigent detainee is held to be no longer indigent during the course of his or her detention, due to a subsequent acquiring of substantial financial resources or valuable assets while incarcerated, such detainee may be charged the costs of incarceration as provided in subsection (b) of this Code section. Rates charged for incarceration shall be adjusted based upon the ability of the detainee to pay, giving priority to any legal obligation of the detainee to support a spouse, minor children, or other dependents. The detainee's interest in any jointly owned primary residence and the income, assets, earnings, or other property owned by the detainee's spouse or family shall not be used to determine a detainee's ability to pay.

(d) Amounts owed by a detainee for the costs of incarceration may be deducted from money credited to the detainee's jail account. The local governing authority may also use any available civil means of debt collection in collecting costs imposed by this Code section; provided, however, that no judgment shall be made against nor lien attached to any property owned by the detainee which is used as a primary residence by the detainee's spouse or children.

(e) Nothing in this Code section shall be construed to relieve the detainee of any other court ordered or statutorily required obligation to pay any expense, fine, fee, restitution, or other costs or amounts. A court ordered fine, fee, or restitution shall have priority over any amount owed pursuant to this Code section. The costs provided for in this Code section shall be in addition to other such costs and amounts; provided, however, that the total costs charged shall not exceed actual costs incurred.

(f) The amounts owed by a detainee pursuant to this article shall be automatically deducted from any award, judgement, or taxes owed to such detainee by a governing authority."

SECTION 3.

This Act shall become effective on July 1, 2010, and shall apply to persons incarcerated on or after such date.

SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.